

Ground 2 or Ground

(if applicable): amended case no. F99-070(C)

MC-275

INEFFECTIVE ASSISTANCE OF COUNSEL, 6th amendment & 14th amendments  
and QUESTION OF HAD.

530  
new

CAN A ATTORNEY FILE A PLEA AGREEMENT TO A FELONY COMPLAINT BEFORE  
THAT COMPLAINT IS FILED, AND DEFENDANT ARRANGED UPON THOSE CHARGES.

a. Supporting facts:

CV 08 2002

TEH

(PR)

E-filing

ON THE MORNING OF APRIL 12, BEFORE COURT COULDNED FOR THE DAY  
MY COUNSEL CAME TO SEE ME WHILE I WAS IN A HOLDING CELL IN THE  
OLD COUNTY JAIL, WITH AN ALLEGED PLEA AGREEMENT TO CASE NO.  
SP99-033(b) THAT ALSO CARRIED THE ALLEGATION OF THREE STRIKES  
DUE TO THE FACT THAT I AGREED TO TESTIFY AGAINST CO-DEFENDANTS  
ON ANOTHER CHARGE. I WAS TO RECEIVE 3 YEARS DOUBLED TO SIX YEARS WITH  
A FIVE YEAR PRISON PURSUANT TO CAL. P.S. 1170(C), & 667A(1) FOR THE SINGLE PRISON  
FROM 1992, OBTAINED PURSUANT TO A NEGOTIATED CONSOLIDATED PLEA AGREEMENT  
TO THREE COUNTS OF FIRST° BURGLARY,

COUNSEL HAD ME <sup>FIRST</sup> INITIAL AND DATE <sup>THEN</sup> SIGN A BLANK PLEA  
FORM STATING THAT HE WAS IN A HURRY TO SEE OTHER CLIENTS BEFORE  
COURT, AND THAT HE WOULD FILL IN THE BODY OF THE AGREEMENT BEFORE  
COURT AS WELL. UNKNOWN TO ME HE INSTEAD FILLED OUT THE PLEA FORM  
TO REFLECT A NO-CONTEST PLEA TO F99-070(C), AND TO RECEIVE A 25 YEAR  
TO LIFE SENTENCE PLUS A FIVE YEAR PRISON FOR A TOTAL OF THIRTY YEARS TO  
LIFE. WHEN CASE WAS CALLED, PROSECUTOR FILED THE AMENDED FELONY COMPLAINT  
F99-070(C), WITH COUNSEL STATING NO OBJECTION THEN AT THE COURTROOM OF THE  
COURT W/OUT BOTH THE READING AND ARRANGEMENT ON THE COMPLAINT

continued on attached page

b. Supporting cases, rules, or other authority:

CAL. CRIM. LAW PRACTICE & PROCEDURE SECTION 18.15

STRICKLAND V. WASHINGTON

DAVIS V. WOODFORD, 446 F.3d 957 (CA.9 (CAL.) 2006)

**FILED**  
 APR 17 2008  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

2008-0001-787

CALIFORNIA Penal Code Section 667(a)(1), which was in effect at the time of Petitioner's 1992 conviction, provides that a person being sentenced "For certain serious felonies received a five year sentence enhancement 'For each such prior conviction (of certain serious felonies) on charges brought and tried separately (emphasis added) 'Brought and tried separately' means that 'the underlying proceedings must have been formally distinct, from filing to adjudication of guilt.'" *In re Harris*, 49 Cal.3d 131, 260 Cal.Rptr. 258, 775 P.2d 1057, 1060 (1989) Separate Charging Documents are Required, But Guilty Pleas and Sentences do not have to be entered and imposed in separate proceedings. *People v. Wagner*, 21 Cal. <sup>APP</sup> 4th 729, 26 Cal.Rptr.2d 383, 388 (2d Dist. Ct. App. 1994) *People v. Gonzales*, 220 Cal. App.3d 134, 269 Cal.Rptr. 221, 224-25 (6th Dist. Ct. App. 1990) *People v. Thomas*, 219 Cal. App.3d 134, 267 Cal. Rptr. 908, 915-16 (4th Dist. Ct. App. 1990).

The prior proceedings were not brought and tried separately but consolidated into one case no 46177 of June 19, 1992, in that proceeding petitioner entered one plea of guilty to three counts that were consolidated into one case no. Not separate cases as mandated by law, petitioner received six years on count one with six years on counts two & three to run concurrent with count one. Petitioner was told by prosecution and the court that he would have one prior conviction on his record for which he could receive an additional five years on any future sentence imposed by the court in the future. Also mentioned that in conjunction with sentence petitioner was then serving in the state of Idaho, petitioner would be doing a total of eleven years.

Note: Petitioner has filed an Cal PC Section 1237.5 with the court a written statement and affidavit with the court under penalty of perjury to the legality of said plea agreement, proceedings.

With no response yet from the appellate on Nevada County Superior Court

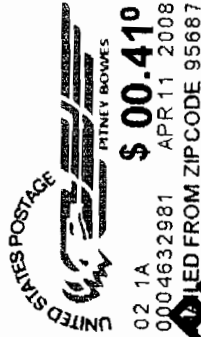
David Lee White #42517  
Solano #1, 1-5-1332  
PO#44000  
Vacaville, ca 95696

Legal Mail

CSP SOLANO  
STATE PRISON

The Honorable, The Hon. B. Henderson  
Senior Judge, U.S. Dist. Court

~~1100~~ Northern Dist. of California  
Courtroom 12, 19th Floor  
450 Golden Gate Ave  
San Francisco, CA 94102



RECEIVED

APR 14 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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